

1 BILL NO. S-85-07-*25*,

2 SPECIAL ORDINANCE NO. S- 146-85

3 AN ORDINANCE approving Contract for  
4 Res. #6027-85, 1985 Resurfacing  
5 Project, by the City of Fort Wayne,  
by and through its Board of Public  
Works and Safety and Dailey Asphalt.

6 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
7 THE CITY OF FORT WAYNE, INDIANA:

8 SECTION 1. The annexed Contract, made a part hereof,  
9 by the City of Fort Wayne by and through its Board of Public Works  
10 and Safety and Dailey Asphalt for Res. #6027-85, 1985 Resurfacing,  
11 is hereby ratified and affirmed and approved in all respects.

12 The work under said Contract requires:

13 improvement by resurfacing and re-  
14 storing pavement as designated on  
15 the following streets to be known  
16 as: (1) Harris Road: from a point  
17 200 feet  $\pm$  North of Goshen Road to  
18 the south pavement of West Coli-  
19 seum Blvd. (2) Sherman Blvd.:  
20 from the south property line of  
21 Florence Avenue to a point 60 $\pm$  north  
22 of the north property line of  
23 Goshen Road. (3) Parnell Avenue:  
24 from the north curb line of State  
25 Blvd. to the north curb line of  
St. Joe River Drive. (4) Crescent  
Ave.: from the south property line  
of Tennessee Avenue to the south curb  
line of State Blvd. (5) Reed Road:  
from the north pavement line of Lake  
Avenue to the north property line of  
Forest Avenue;

the Contract price is Two Hundred Sixty-Five Thousand One Hundred  
Thirty-Five and 30/100 Dollars, (\$265.135.30).

SECTION 2. Prior approval was received from Common  
Council with respect to this Contract on July 9, 1985. Two (2)  
copies of the Contract attached hereto are on file with the City  
Clerk, and are available for public inspection.

SECTION 3. That this Ordinance shall be in full force  
and effect from and after its passage and any and all necessary  
approval by the Mayor.

*Samuel J. Talarico*  
Councilmember

1           Page Two

2           APPROVED AS TO FORM  
3           AND LEGALITY

4           Bruce O. Boxberger  
5           Bruce O. Boxberger, City Attorney

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Read the first time in full and on motion by J. Elmo, seconded by Henry, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City County Building, Fort Wayne Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 7-23-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by P. Redd, seconded by G. Estabrook, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>7</u>	<u>—</u>	<u>—</u>	<u>2</u>	<u>—</u>
<u>BRADBURY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BURNS</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>EISBART</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>GiaQUINTA</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>HENRY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>REDD</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCHMIDT</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>✓</u>	<u>—</u>
<u>STIER</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>TALARICO</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>✓</u>	<u>—</u>

DATE: 8-13-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)  
(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. J-146-85  
on the 13th day of August, 1985,

ATTEST:

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

(SEAL)

Mark E. GiaQuinta  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,  
on the 14th day of August, 1985,  
at the hour of 11:00 o'clock A.M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 15th day of August,  
1985, at the hour of 12:30 o'clock P.M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR

PROJECT: 1985 ASPHALT RESURFACING

RESOLUTION # 6027-85

(Non-Federally Assisted Construction)

SUCCESSFUL  
BIDCONTENTS

## Check if contained Pages

X	I	Cover Sheet
X	II - I9	Instruction to Bidders
X	S1	Schedule
X		Schedule of Items (Itemized Proposal)
X	GPI - GP7	General Provisions
X		Special Conditions
		Plans and Specifications
		Drawings
X		Improvement Resolution
X		Notice to Bidders

ATTACHMENTS

X	Non-Collusion Affidavit
X	Bidder's Bond
X	Performance Bond
X	Sworn Experience Questionnaire
X	Plan and Equipment Questionnaire
X	Contractor Financial Statement 96-A
X	Certificate in Lieu of Financial Statement
X	Prevailing Wage Scale - State of Indiana
	Payment Bond
	Warranty Bond
X	Barricade Information

Discount for prompt payment	10 Calendar Days	20 Calendar Days	30 Calendar Days	Other
	0	0	0	0

Acknowledgement of Amendments (See General Provisions Clause)	Amendment No.	Date	Amendment No.	Date

BID SUBMITTEDContractor Dailey Asphalt Products  
By L. W. Dailey, Jr. L.W.Dailey

Its Pres.

Offer Date July 3, 1985

Bidder agrees to keep bid open for acceptance for \_\_\_\_\_ (90 days unless otherwise specified)

Compliance: C.Bailey

O.C. 12/84

B.O.W. Non-Fed. \*Note: Award will be made on this form

ACCEPTANCE OF BID/AWARD OF CONTRACTCity of Fort Wayne  
Board of Public Works and Safety

Jeanne D. Conner  
James H. Bailey  
 City of Fort Wayne  
 Mayor Asstley R. Sudd

Award Date \_\_\_\_\_

SCHEDULE  
Board of Public Works and Safety

The contractor agrees to furnish at his/her/its own cost all labor, insurance, materials, equipment, and power for the complete performance of the following project:

RESOLUTION NO. 6027-85 1985 ASPHALT RESURFACING

HARRIS ROAD, SHERMAN BLVD., PARNELL AVE., CRESCENT AVE., REED ROAD.

(See attached resolution for details)

All work will be performed in accordance with: Resolution #6027-85 the IFB, this contract and the applicable plans, specifications, and drawings for a TOTAL PRICE of \$265,135.30. (If unit prices are applicable, the contractor agrees to perform for those unit prices as set forth in the Schedule of Unit Prices attached hereto).

The work shall be commenced within ten (10) days after The Board issues a written notice to proceed. All work shall be completed within 9/30/85 days after issuance of the notice to proceed. Those days which the contractor cannot work because of severely inclement weather shall not be counted.

Liquidated Damages Provision. (This clause shall be applicable to this contract only if the box contains a checkmark or an "X".) It is hereby agreed by and between the City of Fort Wayne and Contractor that time is of the essence of this agreement and the contractor agrees that it will complete the project as herein defined on or before 9/30/85 days after issuance of the notice to proceed. The parties agree that it is a business and governmental necessity that the project be completed by this date, that it will be difficult or impossible to make an accurate determination of the damages that would be incurred by the City of Fort Wayne, and therefore provide for liquidated damages in the sum of \$250.00 per day for each and every day after 9/30/85 days after issuance of the notice to proceed that the project remains uncompleted. The parties agree that the sum of \$250.00 per day is a reasonable estimate as to the damages which would be incurred by the City of Fort Wayne. The parties further agree that causes beyond the control of the contractor may delay the completion date. Therefore, the parties agree that delays in the completion date beyond the control of the contractor shall not result in liquidated damages..

Delays beyond the control of the contractor can include but are not necessarily limited to, the following: Acts of God, strikes, lockouts or industrial disturbances, acts of public enemies, restraining orders of any kind by the government of the United States of America or of the State of Indiana or any of their departments, agencies, or officials, or any civil or military authority, insurrections, riots, landslides, earthquakes, fires, incapacitating storms, floods, and explosions.

The MBE/WBE firm (cross out inapplicable provision) shall have \_\_\_\_\_ % participation (employees) \_\_\_\_\_ % participation (costs) in this project.

Specify the percentage of minority/women ownership in the MBE/WBE firm \_\_\_\_ %. (cross out inapplicable provision)

- C. The undersigned commits 7 % of the total bid price as a subcontract to minority business enterprise participation. The MBE firms which are proposed as subcontractors are the following:

<u>Name of Firm</u>	<u>Address</u>	<u>Type of Work</u>
1. Metropolitan Inc.		CATCH BASIN
2.		
3.		

- D. The undersigned commits 2 % of the total bid price as a subcontract to women business enterprise participation. The WBE firms which are proposed as subcontractors are the following:

<u>Name of Firm</u>	<u>Address</u>	<u>Type of Work</u>
1. STATE WIDE		TRUCKING
2.		
3.		

- E. Complete (1) and (2) below if participation goals of 7% MBE and 2% WBE have not been met.

1. My Company cannot meet the participation goals for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. We have taken the following steps in an attempt to comply with these participation goals: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(attach additional sheets as necessary)

Contractor DAILEY ASPHALT PRODUCTS CO., INC. Contractor \_\_\_\_\_

By I.W. Dailey, Jr. By \_\_\_\_\_

Its PRESIDENT Its \_\_\_\_\_

14. Minority/Female Hourly Employment Requirements.  
The City's policy is to encourage a greater utilization of minority and/or female employees in City construction projects. The Board has, therefore, adopted a minimum goal of 17% of the total work hours on each project to be expended by minority and/or female employees. ("Minority" shall include: Blacks, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native.)

The bidder shall state in "A" below the percentage of total work hours which the bidder and his subcontractors will employ and utilize women and minority employees on this project. If a contract is awarded as a result of this bid, the percentage figure set forth in "A" shall become contractually binding on the bidder. The successful bidder will also be required to prepare reports for the City demonstrating compliance with this percentage and will allow city officials access to his records, facilities and work site and to those of his subcontractors to determine compliance.

The bidder must fill in the required blanks in this clause in order to be responsive to this IFB. If the bidder does not meet or exceed the hourly utilization goal of 17% minority/female participation, the reasons for this failure and reasonableness and good faith of efforts to meet this goal shall be evaluated to determine whether the bidder is responsible.

THE FOLLOWING IS THE UNDERSIGNED'S COMMITMENT TO MINORITY/FEMALE HOURLY UTILIZATION.

A. The undersigned firm certifies that it will employ and utilize minorities and females and/or will ensure that its subcontractors employ and utilize minorities and females so that minorities and females will work at least 17% of the total hours worked on this project.

B. Complete (1) and (2) below if the hourly utilization figure set forth in "A" is less than 17%.

1. My Company and its subcontractors cannot meet the 17% minimum hourly utilization figure for the following reasons:

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2. My Company has taken the following steps in an attempt to comply with the 17 $\frac{1}{2}$  hourly utilization figure:

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(attach additional sheets if necessary)

Contractor DAILEY ASPHALT PRODUCTS CO., INC.

By L.W. Dailey, Jr.

Its L.W. DAILEY, JR. PRESIDENT

15. Required Prevailing Wage Schedule Payments - Pursuant to Indiana Code 5-16-7-1. All contractors and subcontractors working on the project awarded pursuant to this contract shall pay the prevailing wage rates for skilled, semi-skilled and unskilled laborers, workmen and mechanics. This wage determination has been made in accordance with the procedures set forth in Indiana Code 5-16-7-1. This determination and the required wage rates are available for examination by any prospective bidder at The Board of Public Works and Safety, 9th Floor, City-County Building, Fort Wayne, Indiana.

If a bidder is awarded a contract as a result of this Invitation for Bids, he/she/it shall file a schedule of wages, on forms provided by the City of Fort Wayne, demonstrating compliance with the wage rate determination. The successful prime contractor shall be responsible for obtaining schedules from all subcontractors. All schedules shall be filed before the contractor commences any work on the project.

Penalties for failure to pay the prevailing wage rate are set forth in Indiana Code 5-16-7-3.

16. Site Orientation. A site orientation (~~will~~/will not) be conducted by the City Engineers. If such an orientation is conducted, it will be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, commencing at \_\_\_\_\_ o'clock \_\_\_\_\_.M. at the site of the project.

Regardless of whether a site orientation is conducted or not, bidders are required to visit the site of the work, and inform themselves fully of the conditions, under which the work will be performed. The bidders shall be responsible for all conditions that affect the work, including, but not limited to all sub-surface conditions.

NON-COLLUSION AFFIDAVIT

The Bidder, by its officers and L. W. Dailey, Jr.

agents or representatives present at the time of filing this bid, being duly sworn on their oaths, say that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other bidder, or with any public officer of such City of Fort Wayne, Indiana, whereby such affiant or affiants or either of them, has paid or is to pay to such other bidder or public officer any sum of money, or has given or is to give such bidder or public officer anything of value whatever, or such affiant or affiants or either of them has not directly or indirectly, entered into any arrangement or agreement with any other bidder or bidders, which tends to or does lessen or destroy free competition in the letting of the contract sought for, by the attached bids, that no inducement of any form or character other than that which appears upon the face of the bid will be suggested, offered, paid or delivered to any person whomsoever to influence the acceptance of the said bid or awarding of the contract, nor has this bidder any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the contract sought by this bid.

Dailey Asphalt Products Co., Inc.

L. W. Dailey, Jr.

Subscribed and sworn to before me by L. W. Dailey, Jr.  
this 3 day of July, 1985.

My Commission Expires:

Oct. 28, 1986

Donna J. Owens  
Notary Public    Donna J. Owens  
Resident of Allen    County, IN

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Subscribed and sworn to before me by \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.  
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My Commission Expires:

Notary Public  
Resident of \_\_\_\_\_ County, IN

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Subscribed and sworn to before me by \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.  
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My Commission Expires:

Notary Public  
Resident of \_\_\_\_\_ County, IN

Contract No.

CERTIFICATE IN LIEU OF FINANCIAL STATEMENT

I, L. W. Dailey, Jr., the Pres.  
(name)

of Dailey Asphalt Products Co., Inc.  
(position) (company)

hereby certify:

(1) That the Financial Statement of said company, dated the 31  
day of July, 1984, now on file in the office of the Board of  
Public Works of the City of Fort Wayne, Indiana, which Financial Statement is by  
reference incorporated herein and made a part hereof, is a true and correct  
statement and accurately reflects the financial condition of said company as of  
the date hereof;

(2) That I am familiar with the books of said company showing its financial  
condition and am authorized to make this certificate on its behalf.

Dated: July 3, 1985

LW Dailey Jr.  
L. W. Dailey, (Signature)

SUBSCRIBED AND SWORN TO before me, a Notary Public, in and for said  
County and State, this 3 day of July, 1985.

Donna J. Owens  
DONNA J. OWENS

My commission expires:

Oct 28 1986

Power of Attorney

KNOW ALL MEN BY THESE PRESENTS:

That TRANSAMERICA INSURANCE COMPANY, a corporation of the State of California, does hereby make, constitute and appoint - - - Gerald A. Dahle, John J. Pikel, Donald T. Belbutowski, or Joanne Mignerey, each individually of Ft. Wayne, Indiana - - -

its true and lawful Attorney(s)-in-Fact, with full power and authority, for and on behalf of the Company as surety, to execute and deliver and affix the seal of the Company thereto, if a seal is required, bonds, undertakings, recognizances or other written obligations in the nature thereof, as follows: - - - Any and all bonds and undertakings not exceeding in amount FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) in any single instance, for or on behalf of this Company, in its business and in accordance with its charter, - - -

and to bind TRANSAMERICA INSURANCE COMPANY thereby, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This appointment is made under and by authority of the following by-laws of the Company which by-laws are now in full force and effect.

**ARTICLE VII**

**SECTION 30.** All policies, bonds, undertakings, certificates of insurance, cover notes, recognizances, contracts of indemnity, endorsements, stipulations, waivers, consents of sureties, re-insurance acceptances or agreements, surety and co-surety obligations and agreements, underwriting undertakings, and all other instruments pertaining to the insurance business of the Corporation, shall be validly executed when signed on behalf of the Corporation by the President, any Vice President or by any other officer, employee, agent or Attorney-in-Fact authorized to so sign by (i) the Board of Directors, (ii) the President, (iii) and Vice President, or (iv) any other person empowered by the Board of Directors, the President or any Vice President to give such authorization; provided that all policies of insurance shall also bear the signature of a Secretary, which may be a facsimile, and unless manually signed by the President or a Vice President, a facsimile signature of the President. A facsimile signature of a former officer shall be of the same validity as that of an existing officer.

The affixing of the corporate seal shall not be necessary to the valid execution of any instrument, but any person authorized to execute or attest such instrument may affix the Corporation's seal thereto.

This Power of Attorney is signed and sealed by a facsimile under and by the authority of the following resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of October 1963.

"Resolved, That the signature of any officer authorized by the By-laws and the Company seal may be affixed by facsimile to any power of attorney or special power of attorney or certification of either given for the execution of any bond undertaking, recognition or other written obligation in the nature thereof; such signature and seal, when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, TRANSAMERICA INSURANCE COMPANY has caused these presents to be signed by its proper officer and its corporate seal to hereunto affixed this 12th day of April , 1985.

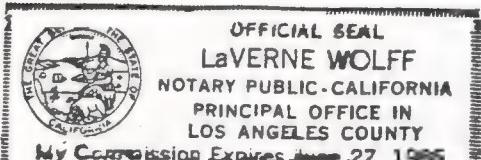


State of California  
County of )  
)

By

*J.H. Tanner*  
J.H. Tanner, Vice President

On this 12th day of April , 1985 , before me LaVerne Wolff, a Notary Public in and for the said County and State, residing therein, duly commissioned and sworn, personally appeared J.H. Tanner personally known to me (or proved to me on the basis of satisfactory evidence) to be a Vice President of TRANSAMERICA INSURANCE COMPANY the corporation whose name is affixed to the foregoing instrument; and duly acknowledged to me that he knows the seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.



*LaVerne Wolff*  
LaVerne Wolff, Notary Public  
in and for the County of Los Angeles, California

TO BE EXECUTED BY BIDDER AND SURETY COMPANY BEFORE DEPOSITING BID:

BIDDER'S BOND

Know All Men by These Presents:

That WE, Dailey Asphalt Products Co., Inc. as principal  
and Transamerica Insurance Company  
and \_\_\_\_\_ as sureties,  
are held and firmly bound unto the City of Fort Wayne, Indiana, in the sum  
of Five percent of the TOTAL PRICE BID DOLLARS (\$ 5% ),  
to be paid to the said City of Fort Wayne, Indiana, or its successors or  
assigns, for the payment of which, well and truly made, we hereby bind our-  
selves, our heirs, successors, executors and administrators, jointly and  
severally, firmly by these presents.

Signed and sealed at Fort Wayne, IN, this 3  
day of July, 1985.

The condition of this obligation is such that if the accompanying bid or  
proposal of Dailey Asphalt Products Co., Inc.

made this day to the City of Fort Wayne, State of Indiana, is accepted, and the  
contract awarded to the above bidder, and the bidder shall, within ten (10) days  
after such award is made, enter into a contract with the City of Fort Wayne,  
State of Indiana, for the work bid upon, and give bond as required; then this  
obligation shall be null and void; otherwise, it shall remain in full force and  
effect.

SIGNED at Fort Wayne, IN  
this 3 day of July, 1985.

Dailey Asphalt Products Co., Inc.

LW Dailey Jr.

Principal

President

Transamerica Insurance Company

John W. Johnson

Surety

Attorney in fact

\*If signed by an agent appropriate power  
of attorney shall be attached

## ITEMIZED PROPOSAL

**CONTRACTOR:** Dailey Asphalt Products Co., Inc

**PROJ 1985 ASPHALT RESURFACING**

RES. NO: 6027-85

\*Prismo or 3M or Cataphote Brand

TOTAL: # 265,135.30  
J.A. 262,635.30

Sheet 1 of 1

Note: Contractor will be paid on measured quantities only at unit price bid bid.



Property and Casualty Insurance  
from Transamerica Corporation

A STOCK COMPANY

Transamerica Insurance Group

Transamerica Insurance Company

HOME OFFICE: LOS ANGELES, CALIFORNIA

## PERFORMANCE BOND

(Construction, Supply, or Miscellaneous Contract)

KNOW ALL MEN BY THESE PRESENTS, That we, Dailey Asphalt Products Company, Inc.

of Fort Wayne, Indiana

called the Principal, and TRANSAMERICA INSURANCE COMPANY, called the Surety, are held and firmly bound unto City of Fort Wayne, Board of Public Works & Safety

called the Obligee, in the sum of Two hundred sixty five thousand, one hundred

thirty five and 30/100 Dollars (\$ 265, 135.30), for the payment

whereof said Principal and Surety bind themselves firmly by these presents.

WHEREAS, the Principal has, by written Agreement, dated July 10, 1985  
entered into a contract with the Obligee for

Resolution #6027-85 Resurfacing Harris Rd., Sherman Boulevard,  
Parnell Avenue, Crescent Avenue and Reed Road

as is more particularly described in the said contract, a copy of which is by reference made a part hereof;

NOW THEREFORE, the condition of this obligation is such, that if the Principal shall indemnify the Obligee against any loss or damage directly arising by reason of the failure of the Principal to faithfully perform said contract, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that no suit shall be brought on this bond after the expiration of two (2) years from the date on which Principal ceases work on the contract.

No right of action shall accrue on this bond to or for the use of any person, firm or corporation other than the Obligee named herein or the heirs, executors, administrators or successors of the Obligee.

Signed and Sealed, this 10th day of July 1985

DAILY ASPHALT PRODUCTS CO., INC (Seal)  
(Principal)

By:

Transamerica Insurance Company

By:

Attorney-in-Fact

Power of Attorney

**KNOW ALL MEN BY THESE PRESENTS:**

That **TRANSAMERICA INSURANCE COMPANY**, a corporation of the State of California, does hereby make, constitute and appoint - - - Gerald A. Dahle, John J. Pikel, Donald T. Belbutowski, or Joanne Mignerey, each individually of Ft. Wayne, Indiana - - -

its true and lawful Attorney(s)-in-Fact, with full power and authority, for and on behalf on the Company as surety, to execute and deliver and affix the seal of the Company thereto, if a seal is required, bonds, undertakings, recognizances or other written obligations in the nature thereof, as follows: - - - Any and all bonds and undertakings not exceeding in amount **FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00)** in any single instance, for or on behalf of this Company, in its business and in accordance with its charter, - - -

and to bind **TRANSAMERICA INSURANCE COMPANY** thereby, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This appointment is made under and by authority of the following by-laws of the Company which by-laws are now in full force and effect.

**ARTICLE VII**

**SECTION 30.** All policies, bonds, undertakings, certificates of insurance, cover notes, recognizances, contracts of indemnity, endorsements, stipulations, waivers, consents of sureties, re-insurance acceptances or agreements, surety and co-surety obligations and agreements, underwriting undertakings, and all other instruments pertaining to the insurance business of the Corporation, shall be validly executed when signed on behalf of the Corporation by the President, any Vice President or by any other officer, employee, agent or Attorney-in-Fact authorized to so sign by (i) the Board of Directors, (ii) the President, (iii) and Vice President, or (iv) any other person empowered by the Board of Directors, the President or any Vice President to give such authorization; provided that all policies of insurance shall also bear the signature of a Secretary, which may be a facsimile, and unless manually signed by the President or a Vice President, a facsimile signature of the President. A facsimile signature of a former officer shall be of the same validity as that of an existing officer.

The affixing of the corporate seal shall not be necessary to the valid execution of any instrument, but any person authorized to execute or attest such instrument may affix the Corporation's seal thereto.

This Power of Attorney is signed and sealed by a facsimile under and by the authority of the following resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of October 1963.

"Resolved, That the signature of any officer authorized by the By-laws and the Company seal may be affixed by facsimile to any power of attorney or special power of attorney or certification of either given for the execution of any bond undertaking, recognition or other written obligation in the nature thereof; such signature and seal, when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, **TRANSAMERICA INSURANCE COMPANY** has caused these presents to be signed by its proper officer and its corporate seal to hereunto affixed this 12th day of April , 1985.



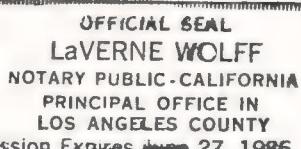
State of California  
County of )  
              ) ss

By

*J.H. Tanner*  
J.H. Tanner, Vice President

On this 12th day of April , 1985 , before me LaVerne Wolff, a Notary Public in and for the said County and State, residing therein, duly commissioned and sworn, personally appeared J.H. Tanner personally known to me (or proved to me on the basis of satisfactory evidence) to be a Vice President of **TRANSAMERICA INSURANCE COMPANY** the corporation whose name is affixed to the foregoing instrument; and duly acknowledged to me that he knows the seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

*LaVerne Wolff*  
LaVerne Wolff, Notary Public  
in and for the County of Los Angeles, California



My Commission Expires June 27, 1986

**Labor and Material Payment Bond**

Approved by The American Institute of Architects  
A.I.A, Document No. A-311 (February 1970 Edition)

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE  
OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT

**KNOW ALL MEN BY THESE PRESENTS:** that Dailey Asphalt Products Company, Inc., 1122 Thomas Road,  
(Here insert full name and address of legal title of Contractor)

Fort Wayne, Indiana 46804

as Principal, hereinafter called Principal, and TRANSAMERICA INSURANCE COMPANY, a California Corporation, of Los Angeles, California, as Surety, hereinafter called Surety, are held and firmly bound unto

(Here insert full name and address or legal title  
of Owner) City of Fort Wayne, Board of Public Works & Safety, 1 Main Street, 9th Floor,  
Fort Wayne, Indiana 46802

as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of  
Two hundred sixty five thousand, one hundred thirty five & 30/100 Dollars (\$ 265,135.30-----),  
(Here insert a sum equal to at least one-half of the contract price)  
for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns,  
jointly and severally, firmly by these presents.

**WHEREAS,**

Principal has by written agreement dated July 10, 19 85 , entered into a contract with Owner for  
Resolution #6027-85 Resurfacing Harris Rd., Sherman Boulevard, Parnell Avenue,  
Crescent Avenue, and Reed Road

in accordance with drawings and specifications prepared by  
(Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

**NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION** is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void, otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating

with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this

10th

day of July

, 1985

Lorraine L. Casper  
(Witness)

DAILY ASPHALT PRODUCTS CO., INC.

(Principal)

(Seal)

H.W. Dailey Jr.  
(Title)

(Seal)

Virginia P. Dolt  
(Witness)

Transamerica Insurance Company

(Surety)

(Surety)

Donald R. Westmoreland  
Attorney-in-Fact

TITLE OF ORDINANCE Contract for Res. #6027-85, 1985 Resurfacing Project, Dailey Asphalt,  
Contractors

DEPARTMENT REQUESTING ORDINANCE Board of Public Works & Safety J-85-0725

SYNOPSIS OF ORDINANCE Contract for Res. #6027-85 - 1985 Resurfacing is for the improvement by resurfacing and restoring pavement as designated on the following streets to be known as: 1) Harris Road: from a point 200 feet ± North of Goshen Road to the south pavement of West Coliseum Blvd. 2) Sherman Blvd.: from the south property line of Florence Avenue to a point 60± north of the north property line of Goshen Road. 3) Parnell Avenue: From the north curb line of State Blvd. to the north curb line of St. Joe River Drive. 4) Crescent Ave.: from the south property line of Tennessee Avenue to the south curb line of State Blvd. 5) Reed Road: from the north pavement line of Lake Avenue to the north property line of Forest Avenue. Dailey Asphalt is the contractor.

PRIOR APPROVAL RECEIVED ON JULY 9, 1985

EFFECT OF PASSAGE Improvement of above named streets.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$265,135.30

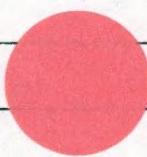
ASSIGNED TO COMMITTEE

BILL NO. S-85-07-25

REPORT OF THE COMMITTEE ON

PUBLIC WORKS

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS  
REFERRED AN (ORDINANCE) (RESOLUTION) approving Contract for  
Res. #6027 - 85, 1985 Resurfacing Project, by the City of Fort Wayne,  
by and through its Board of Public Works and Safety and Dailey Asphalt



HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND BEC  
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)  
(RESOLUTION)

YES

NO

Samuel J. Talarico

SAMUEL J. TALARICO  
CHAIRMAN

Charles B. Redd

CHARLES B. REDD  
VICE CHAIRMAN

Paul M. Burns

PAUL M. BURNS

Donald J. Schmidt

DONALD J. SCHMIDT

Thomas C. Henry

THOMAS C. HENRY

CONCURRED IN

8-13-85

SANDRA E. KENNEDY  
CITY CLERK